IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.R. No. 595 of 1995

DATE OF DECISION: 27.8.2007

The Commissioner of Income-tax, Patiala

…Applicant

Versus

M/s Sant Ram Mangat Ram, Chandigarh

…Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

Present: Mr. S.K. Garg Narwana, Advocate,
for the applicant-revenue.

JUDGMENT

M.M. KUMAR, J.

At the instance of the revenue the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh (for brevity, 'the Tribunal'), has referred the following question of law for determination of this Court by exercising jurisdiction under Section 256(1) of the Income-tax Act, 1961 (for brevity, 'the Act'), which is stated to have emerged from order dated 4.1.1995, passed in I.T.A. No. 149/Chandi/1990, in respect of assessment year 1981-82:-

> "Whether, on the facts and in the circumstances of the case, specially when the quantum assessment on he basis of which the penalty u/s 271(1)(a) was imposed has not attained finality, the ITAT, was right in deleting the penalty of Rs. 82,470/- imposed u/s 271(1)(a)?"

When the instant reference came up for hearing on 15.2.2005, a Division Bench of this Court ordered the same to be heard alongwith I.T.R. No. 133 of 1992.

In view of the fact that the question referred in I.T.R. No. 133 of 1992 has been answered against the revenue, vide separate detailed order of the even date, therefore, the aforementioned question has to be answered against the revenue in this case also.

In view of above, the question is answered against the revenue and in favour of the assessee.

(M.M. KUMAR)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

August 27, 2007

Pkapoor